



INTERIOR BOARD OF INDIAN APPEALS

Tuba City (Grey Hills) High School Board, Inc. v. Assistant Navajo Area Director,
Bureau of Indian Affairs

18 IBIA 314 (06/18/1990)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

TUBA CITY (GREY HILLS) HIGH SCHOOL BOARD, INC.,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
	:	
v.	:	Docket No. IBIA 90-100-A
	:	
NAVAJO AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	June 18, 1990

This is an appeal under 25 CFR 2.8 from the alleged inaction of the Navajo Area Director, Bureau of Indian Affairs. Appellant states that the Area Director failed to respond to its request for a statement of position with respect to the entitlement of certain of its employees to Federal Civil Service retirement credit.

Appellant operates the Tuba City High School under a P.L. 93-638 contract. It alleges that, in violation of 25 U.S.C. § 450i (1982), certain of its employees are not being given Federal Civil Service retirement credit for the time they have been employed by appellant although payments into the Federal retirement system have been deducted from their salaries since December 1985, when they were first employed by appellant. Under 25 U.S.C. § 450i(e) (1982), Federal employees who leave Federal employment to work for a tribal organization may, under certain conditions, retain Federal retirement benefits.

It is apparent that this appeal does not arise under 25 CFR Part 2 and is not within the Board's jurisdiction. 25 CFR 2.3(b) provides: "This part does not apply if any other regulation or Federal statute provides a different administrative appeal procedure applicable to a specific type of decision." The Board's administrative review jurisdiction is limited to matters arising under 25 CFR Chapter I and other matters concerning Indians which are referred to it for the exercise of review authority of the Secretary or the Assistant Secretary - Indian Affairs. 43 CFR 4.1(b)(2), 4.330(a).

The Civil Service Retirement System is administered by the Office of Personnel Management, which "has charge of the adjudication of all claims arising under [the statutes concerning the system], and of all matters directly or indirectly concerned with these adjudications." 5 CFR 831.101(a). See also 5 U.S.C. §§ 8347, 8461 (1982), 5 CFR 841.105(a). This Board lacks jurisdiction over matters arising under that system.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal is dismissed for lack of jurisdiction.

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Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge